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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,620	04/07/2005	Vincentius Paulus Buil	NL 021025	6984
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EXAMINER				
BELOUSOV, ANDREY				
ART UNIT		PAPER NUMBER		
2174				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/530,620

**Applicant(s)**

BUIL ET AL.

**Examiner**

ANDREY BELOUSOV

**Art Unit**

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 10/6/2009. Claims 1-5 and 7 are pending and have been considered below.

#### ***Examiner's Note***

The Applicant appears to be attempting to invoke 35 U.S.C. 112 6th paragraph in Claims 1 and 2 by using "means-plus-function" language. However, the Examiner notes that the only "means" for performing these cited functions in the specification appears to be computer program modules. While the claims pass the first test of the three-prong test used to determine invocation of paragraph 6, since no other specific structural limitations are disclosed in the specification, the claims do not meet the other tests of the three-prong test. Therefore, 35 U.S.C. 112 6th paragraph has not been invoked when considering these claims below. However, even if the 112 6<sup>th</sup> paragraph is deemed to be invoked, then the structural means of claim 1 and 2 are equivalent to the same data processing hardware modules disclosed in Khosla (Fig. 2.)

A claim limitation will be presumed to invoke 35 U.S.C. 112, sixth paragraph, if it meets the following 3-prong analysis:

- (A) the claim limitations must use the phrase "means for " or "step for; "
- (B) the "means for " or "step for " must be modified by functional language; and
- (C) the phrase "means for " or "step for " must not be modified by sufficient structure, material, or acts for achieving the specified function.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Khosla et al. (6,202,061.)

**Claim 1, 3, 5:** Khosla discloses a system (Fig. 2) for enabling a user to manipulate a user interface (Fig. 2: 511, 513, 517, 519), the system comprising:

- a. receiving means (Fig. 2: 519, 517) for receiving a selection (Fig. 12E: selection of 803, shoebox containing all pictures) from the user, wherein a selection-criterion defines the selection (it is inherent that a user would have certain criteria for choosing a certain collection from the choices in Fig. 12E: 303; e.g. a selection-criterion of all pictures – “shoebox”);
- b. obtaining means (Fig. 2: 505, 507, 509, 515) for obtaining at least one previous collection that matches the selection (Fig. 12E: 305);
- c. generating means (Fig. 2: 501) for automatically generating a generated-collection (Fig. 12E: 805) that comprises the at least one item (Fig. 12E: 1253a, e.g. any items from the shoebox as shown in Fig. 12E: 305) wherein each item in the generated-collection matches the selection (pictures from dragged and

dropped into the new Sample Album would match the selection – pictures from the shoebox); and

- d. presentation means (Fig. 2: 511, 513) for generating to the user, through the user interface (Fig. 2: 511, 513, 517, 519), an overview comprising the generated-collection and the at least one previous collection that matches the selection (Fig. 12E: 303.)

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khosla.

**Claim 2, 4, 7:** Khosla discloses a system for enabling a user to manipulate a user interface according to claim 1,

- a. the at least one item is labeled by an item-label (captions or titles, 5:54-5:63), the at least one previous collection is labeled by a collection-label (Fig. 12E: 805, “Shoebox”); and
- b. the generated-collection comprises the at least one item (Fig. 12E: 1253a);

- c. the overview (Fig. 12E: 303) comprises the generated-collection (Fig. 12E: 1242) and the at least one previous collection (Fig. 12E: 803) of which the collection-label (Fig. 12E: 803) matches the selection-criterion (it is inherent that a user would have certain criteria for choosing a certain collection from the choices in Fig. 12E: 303; e.g. a selection-criterion of all pictures – “shoebox.”)

However, Khosla does not explicitly disclose that the at least one item of which the item-label matches the selection-criterion.

The Examiner takes Official Notice that it is old and well known to have albums with names (e.g. “weddings”, “birthdays” etc.) including album pictures having consistently themed picture captions. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the at least one item of which the item-label matches the selection-criterion. One would have been motivated to name a collection to correspond to a selection-criterion for subsequent retrieval without having to look through all collections.

### ***Response to Arguments***

Applicant's arguments filed 10/6/2009 have been fully considered but they are not persuasive.

Applicant argues that the example from paragraph [0006] is not disclosed by Khosla. The Examiner respectfully disagrees. The quoted subject matter from the example is not recited in the claim; the equivalent means from applicant's specification

would only cover the structural aspects, such as those shown in Fig. 2 of Khosla, and not the functional limitations as performed by software running on that structure.

The truism presented in relation to the claim language as read upon it by the reference has a meaningful significance as it distinguishes from a case where the dragged and dropped item may be from a different collection other than the shoebox. It is quite plausible that a graphics file that is not contained in the shoebox may be dragged and dropped from another similar application.

Applicant appears to be equating "selecting using a selection criterion with "searching using a search criterion." Selection, as is disclosed in Khosla could be nothing more than double-clicking on the shoebox icon to "select" it. Furthermore, the "selection criterion" can either be that of the user, who decides to "select" (i.e. double-click) *that* particular icon, or it could be of the system to display the elements of a particular database based on user-input being the criteria for selection. Therefore, "matching" would be to provide the elements associated or included with the object that was selected. In this case, each element, alone or in combination, would "match" the selection; a notion that is supported in applicant's specification towards the bottom of paragraph [0021] with regard to sub-collections.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Belousov whose telephone number is (571) 270-1695. The examiner can normally be reached on Mon-Fri (alternate Fri off) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571) 272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3800.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AB

/Steven P Sax/  
Primary Examiner, Art Unit 2174

1/7/2010